

IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA, ex rel., IOWA
DEPARTMENT OF NATURAL
RESOURCES (99AG23542),

Plaintiff,

vs.

JERRY L. RONEY,

Defendant.

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LAW NO. _____

PETITION AT LAW

COMES NOW Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources ("DNR") and for its claims against Jerry L. Roney ("Roney") states as follows:

Introduction

1. The release of petroleum from underground storage tanks ("USTs") is a substantial public concern because it threatens public health and safety and the natural resources of the state. Roney has failed to conduct a Tier 2 site assessment at a petroleum contaminated site in Huxley, Iowa, and submit a report to the DNR. The State of Iowa, therefore, brings this action seeking civil penalties, injunctive relief, and enforcement of an administrative order against Roney.

Parties

2. The State of Iowa is a sovereign state of the United States of America and brings this action on behalf of the DNR, a duly constituted agency of the State of Iowa. *See* Iowa Code § 455A.2 (2005).

3. Roney is a resident of Story County, Iowa.

Jurisdiction

Water Quality

4. The DNR is the agency of the state responsible for the prevention, abatement, or control of water pollution. Iowa Code § 455B.172(1).

5. "Water pollution" means the contamination or alteration of the physical, chemical, biological, or radiological integrity of any water of the state by a source resulting in whole or in part from the activities of humans, which is harmful, detrimental, or injurious to public health, safety, or welfare, to domestic, commercial, industrial, agricultural, or recreational use or to livestock, wild animals, birds, fish, or other aquatic life. Iowa Code § 455B.171(37).

6. The Iowa Environmental Protection Commission (hereinafter "EPC") has rulemaking authority relating to plans and programs for the prevention, control and abatement of water pollution. Iowa Code § 455B.173(1). Implementing rules are contained in 567 Iowa Admin. Code 60-69.

7. Dumping, depositing, or discharging of pollutants into any water of the state is prohibited, except adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the DNR. Iowa Code § 455B.186(1).

8. An owner of property from which pollutants seep into the groundwater is responsible to investigate, evaluate, and develop a remedial plan for abatement of the contamination. *Blue Chip Enter. v. Iowa Dep't of Natural Res.*, 528 N.W.2d 619, 627 (Iowa 1995).

9. The DNR director shall take any action allowed by law which, in the director's judgment, are necessary to enforce or secure compliance with the provisions of Iowa Code chapter 455B, Division III, part 1("Water Quality"), and rules adopted thereunder. Iowa Code § 455B.174(3).

10. The DNR director is authorized to enforce the requirements of Iowa Code chapter 455B, Division III, part 1, and rules adopted thereunder, by issuance of an administrative order directing a violator to desist in the practice which constitutes a violation, and to take necessary corrective action to ensure that the violation will cease. Iowa Code § 455B.175(1).

11. A person who violates any provision of Iowa Code chapter 455B, Division III, Part 1 or any permit, rule, standard, or order issued thereunder shall be subject to a civil penalty not to exceed five thousand dollars (\$5,000.00) for each day of such violation. Iowa Code § 455B.191(1)

12. The Attorney General is authorized, at the request of the DNR director with approval of the EPC, to initiate any legal proceedings, including an action for an injunction or temporary injunction, necessary to enforce the penalty provisions of Iowa Code chapter 455B, Division III, Part 1, or to obtain compliance with the provisions of said statutes or any rules promulgated or any provision of any permit issued thereunder. Iowa Code § 455B.191(4).

Hazardous Condition

13. The DNR is responsible for preventing, abating, and controlling the exposure of the citizens of the state to hazardous conditions. Iowa Code § 455B.382.

14. A “hazardous condition” is defined as “any situation involving the actual, imminent, or probable spillage, leakage, or release of a ‘hazardous substance’ onto the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment.” Iowa Code § 455B.381(4); 567 Iowa Admin. Code 131.1.

15. The DNR defines “hazardous substance” to include petroleum products in sufficient quantity. 567 Iowa Admin. Code 131.1.

16. The DNR has established “maximum contaminant levels” (MCLs) in drinking water supplies for certain organic compounds, including petroleum constituents benzene, toluene, ethylbenzene, and xylene. 567 Iowa Admin. Code 41.5(1)”b”(1). The MCLs for these petroleum constituents are: benzene, 0.005 mg/L; toluene, 1 mg/L; ethylbenzene, 0.7 mg/L; and xylenes, 10 mg/L. 567 Iowa Admin. Code 41.5(1)”b”(1).

17. Petroleum contamination is considered a “significant risk” when it is present in water in excess of an MCL, or is present in the soils, surface water, or other environment in proximity to groundwater which may reasonably be expected to contaminate the groundwater to an MCL. 567 Iowa Admin. Code 133.2.

18. A person having control over a “hazardous substance” polluting the groundwater is “individually subject to liability for submitting and implementing a plan of investigation to determine the extent of contamination.” *Blue Chip Enter. v. Iowa Dep’t of Natural Res.*, 528 N.W.2d 619, 625 (Iowa 1995).

19. The attorney general shall, at the request of the DNR, institute any legal proceedings, including an action for an injunction or temporary injunction, necessary to obtain compliance with the provisions of Iowa Code chapter 455B, division IV, part 4 (“Hazardous Conditions”). Iowa Code § 455B.391.

Underground Storage Tanks

20. The DNR is authorized to regulate underground storage tanks (“USTs”) containing regulated substances, including petroleum products, and to adopt rules relating to detection, prevention and correction of releases of regulated substances from such tanks. Iowa Code §§ 455B.471- 479.

21. The Environmental Protection Commission (“EPC”) is authorized to adopt rules related to release detection and prevention, financial responsibility, tank closure, site assessment, risk classification, and corrective action applicable to all owners and operators of USTs. Iowa Code § 455B.474. The UST rules adopted by the EPC are contained in 567 Iowa Admin. Code chapters 133, 135 and 136.

22. An “owner” of a UST is a person who owns the UST used for the storage, use, or dispensing of petroleum products. *See* Iowa Code § 455B.471(6)(a); 567 Iowa Admin. Code 135.2.

23. An “operator” of a UST is a person in control of, or having responsibility for, the daily operation of the UST. Iowa Code § 455B.471(5); 567 Iowa Admin. Code 135.2.

24. Within 90 calendar days after a release of petroleum from a UST is confirmed, or another reasonable period of time determined by the DNR, owners and operators must submit a Tier 1 site assessment report to the DNR. 567 Iowa Admin. Code 135.9(11)(a).

25. A “Tier 1 site assessment” is the evaluation of a site for the purpose of determining the concentrations of chemicals associated with a petroleum release and an accurate identification of the risks to human health and the environment. 567 Iowa Admin. Code 135.9(1).

26. All assessment, corrective action, data analysis and report development must be conducted by or under the supervision of a certified groundwater professional. 567 Iowa Admin. Code 135.8(2).

27. A Tier 2 site assessment must be conducted and a site cleanup report submitted for all sites which are not classified as “no action required” during the Tier 1 process. 567 Iowa Admin. Code 135.10(1).

28. A Tier 2 site cleanup report must be submitted within 180 days of the date the DNR approves or is deemed to approve a Tier 1 assessment report under 567 Iowa Admin. Code 135.19(12). 567 Iowa Admin. Code 135.10(11)(a).

Facts

29. In October 1990, petroleum contamination at the former Moore Oil Company site a/k/a Huxley Amoco, located at 310 North US Hwy. 69 (the "Site") was first reported to the DNR.

30. From approximately 1954 to 1998, Verle Landess was the owner of the Site, and the USTs were operated by various individuals under leases with her.

31. In August 1995, the four USTs in operation at the site were taken out of operation, and they were all removed from the Site in late 1996.

32. In 1997, Landess conducted a Tier 1 site assessment and submitted a report to the DNR.

33. Upon reviewing the Tier 1 site assessment report, the DNR required Landess to conduct a Tier 2 site assessment to properly classify the Site and determine if further corrective action was required. Landess was notified of this requirement in a January 15, 1998 letter from the DNR.

34. By a letter dated February 25, 1998, Landess informed the DNR the Site was being sold that week to Defendant Jerry Roney. Landess stated in the letter she was transferring all her rights to benefits from the Iowa UST Fund Board to Roney as a condition of the sale.

35. In certified letters dated June 3, 1998, the DNR notified both Landess and Roney of the requirement to complete the Tier 2 site assessment.

36. On July 28, 1998, the DNR sent a second certified letter to Roney notifying him of the requirement to complete the Tier 2 site assessment. The DNR received no response.

37. On April 27, 1999, the DNR sent certified letters to Landess and Roney to inform them that each was considered a responsible party for completing the Tier 2 assessment. The DNR directed them to submit a Tier 2 site assessment report to the DNR no later than July 16, 1999.

38. In a May 3, 1999 letter, Landess informed the DNR Roney assumed regulatory responsibility for the Site when he purchased it, and at her age (over 90 years old) she was not able to be "out and about." Roney did not reply to the letter.

39. On January 12, 2000, the DNR director issued Administrative Order 2000-UT-01 to Roney. A copy of the order is attached hereto as Exhibit A, and by this reference is incorporated herein. The order required Roney to perform the following:

- a. provide a written contract to the DNR with the groundwater professional retained to complete a Tier 2 Site assessment within 30 days;
- b. Submit a Tier 2 assessment report within 120 days;
- c. pay to the DNR an administrative penalty of \$2,000.00 within 60 days for violations of DNR UST rules.

40. Roney received Administrative Order 2000-UT-01 on January 26, 2000, and did not appeal. A copy of the signed return receipt is contained on the last page of Exhibit A.

41. Roney retained ATC Associates, Inc. to conduct the Tier 2 assessment.

42. On May 25, 2000, ATC notified the DNR free product was discovered at the Site. ATC also discovered petroleum contamination in the groundwater in excess of the allowable MCLs.

43. An analysis of the Site by ATC determined that possible exposure to vapors from the petroleum contamination existed via a residential basement and sanitary sewers.

44. On August 2, 2000, ATC submitted a Tier 2 site assessment report to the DNR.

45. In October 2000, the DNR collected the unpaid administrative penalty imposed against Roney in Administrative Order 2000-UT-01 through an administrative offset processed by the Iowa Department of Revenue against a UST Fund Board reimbursement payment to him.

46. On November 1, 2000, the DNR sent a certified letter to Roney informing him it rejected the Tier 2 report due to several deficiencies. The DNR directed Roney to submit a revised Tier 2 report within 90 days. The certified mail return receipt was returned to the DNR indicating the letter remained "unclaimed" after three attempts.

47. On December 4, 2000, the letter was again sent to Roney by regular mail. Roney did not respond to the letter.

48. On February 24, 2003, the DNR sent a letter to Roney requesting an update on the status of the revised Tier 2 assessment. Roney did not respond to the letter.

49. Roney has not submitted a revised Tier 2 assessment to the DNR.

Violations

50. The groundwater on and near the Site has been and is continuing to be polluted by petroleum contamination.

51. The petroleum contamination at the Site constitutes a "hazardous condition" under Iowa Code section 455B.381(4).

52. Roney has failed to complete an acceptable Site assessment in violation of Administrative Order No. 2000-UT-01.

WHEREFORE, Plaintiff State of Iowa ex rel., Iowa Department of Natural Resources respectfully requests the Court:

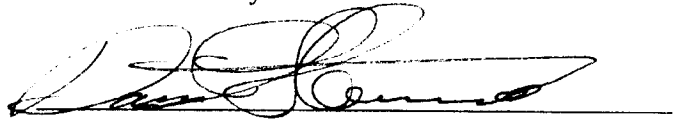
- a. assess a civil penalty against Roney pursuant to Iowa Code section 455B.191(1) for each day of violation of Administrative Order No. 2000-UT-01 not to exceed five thousand dollars (\$5,000) for each day of violation; and
- b. issue an order permanently enjoining Roney from any further violation of Administrative Order No. 2000-UT-01, and further requiring Roney to:
 - (1) within 10 days, submit to the DNR the name of the certified groundwater professional retained to complete the environmental assessment activities required by this order; and
 - (2) within 90 days, complete an acceptable Tier 2 site assessment and submit to the DNR a Tier 2 site cleanup report as provided in 567 Iowa Admin. Code 135.10.

Plaintiff further requests such other relief the Court may deem just and proper and that the Court tax the costs of this action to the Defendant.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

DAVID R. SHERIDAN
Assistant Attorney General



DAVID S. STEWARD, PK1024804
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ATTORNEYS FOR PLAINTIFF

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF:

JERRY L. RONEY

**REG. #860890⁹
LUST #8LTF04**

**ADMINISTRATIVE ORDER
NO. 2000-UT- 01**

**To: Jerry Roney
310 North Hwy 69
Huxley, IA. 50124**

I. SUMMARY

This Order requires you to complete a Tier 2 site assessment in accordance with administrative rules in Chapter 567 Iowa Administrative Code 135. The Tier 2 site cleanup report (SCR) must be submitted within 120 days of receipt of this order. You are required to pay a penalty of \$2,000 within sixty (60) days of receipt unless the order is appealed as provided in Division VII below.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Elaine Douskey
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515/281-8011

Relating to appeal rights:

David Wornson
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515/242-5817

II. JURISDICTION

This order is issued pursuant to Iowa Code §§455B.474(1)(f)(10) and 455B.476, which authorize the Director to issue any order necessary to secure compliance with the Iowa Code Division IV, Part 8 and Department rules contained in Chapter 567 I.A.C. 135. Iowa Code §455B.109 and agency rules at 567 I.A.C. The order is also issued under the authorities granted in Iowa Code sections 455B.175 and 186 and Iowa Code sections 455B.381-399. Chapter 567 I.A.C. 10 authorizes the Director to assess administrative penalties up to \$10,000.



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III. STATEMENT OF FACTS

1. Suspected petroleum contamination was first reported to be present at the former Moore Oil Company site, a/k/a Huxley Amoco, located at 310 North US Hwy. 69, Huxley, Iowa in October 1990 as the result of soil gas testing. Confirmation of petroleum contamination in groundwater and soil was subsequently confirmed by laboratory analysis in August of 1991. As a result of this report, a site cleanup assessment and report (SCR) was completed and submitted to the Department in the fall of 1994. The Department reviewed the SCR and by letter dated September 1, 1994 required that a corrective action design report (CADR) be submitted. Interim site monitoring reports were required to be submitted.
2. The Department approved a CADR by letter dated June 26, 1996. The site was still classified as high risk but a semi-annual groundwater monitoring plan was approved. There had been a history of free product at the site and periodic free product reports were required. By September of 1997 minimal amounts of free product were being recovered by hand bailing and the Department approved a recommendation to cease further free product recovery activities.
3. During this period of time, Brian Moore, d/b/a Moore Oil Company, operated four underground storage tanks under a lease agreement with the property owner. Since approximately 1954, Verle Landess was the owner of the property on which USTS were located and was the owner of at least three of the four USTS at the site.
4. The SCR was submitted jointly by Verle Landess and Brian Moore in 1994. The facility ceased operation of the USTS in August of 1995. Verle Landess was required to permanently close the USTS. All USTS were removed by Verle Landess in late 1996.
5. Due to the passage of legislation in 1995 and the subsequent adoption of new "risk based corrective action" (RBCA) rules by the Department in August 1996, the site was required to undergo a re-evaluation of data previously submitted. The Department conducted a preliminary Tier 1 site assessment in 1997. As a result of that assessment under existing RBCA rules, a Tier 2 site assessment was required to properly classify the site and determine if further corrective action is required. Soil and groundwater sampling from the 1996 UST closure also indicated that concentrations were higher than previously reported.
6. Verle Landess retained a certified groundwater professional who submitted a Tier 1 report to the Department. By letter dated January 15, 1998, the Department informed Mrs. Landess that a Tier 2 report would be required. By letter dated January 16, 1998, the groundwater professional, ATC Associates, Inc. informed the Department that additional field work would be needed in order to complete the Tier 2 assessment.

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7. By letter dated February 25, 1998, Verle Landess informed the Department that the property was being sold that week to Jerry Roney. The letter further stated that Verle Landess would be transferring all her rights to Iowa UST Fund remedial benefits to Mr. Roney as a condition of the sale. Consequently, the Department notified both Verle Landess and Jerry Roney by certified letter dated June 3, 1998 of the requirement to complete the Tier 2 site assessment.

8. In response to the Department's letter, Verle Landess replied by letter dated June 5, 1998 stating her position that she no longer had regulatory responsibility and these responsibilities had been assumed by Mr. Roney as part of the property transaction. She enclosed a copy of a "Remedial Benefits/Duties Assignment" signed by Mr. Roney which transferred benefit rights from Verle Landess to Jerry Roney. The Department received a copy of a warranty deed transferring title of the property to Mr. Roney pursuant to a previously executed contract entitled "Lease/option - Business Property". A copy of the Lease/Option agreement was later submitted and by its terms requires the assignee, Jerry Roney, to assume all environmental regulatory obligations.

9. By letter dated June 3, 1998 the Department informed Mr. Roney of the regulatory requirements at the site and required submittal of the Tier 2 within sixty (60) days of receipt. A second certified letter dated July 28, 1998 again notified him and gave him the opportunity to inform the Department of his intentions to comply. The Department received no response.

10. A Department attorney issued a final notice by certified letter dated April 27, 1999 to Verle Landess and Jerry Roney informing them that each was considered a responsible party for completing the Tier 2 assessment and requested a response from both parties. Verle Landess responded again stating her position that Mr. Roney had assumed these responsibilities and that she was unable to complete this work due to her age (over 90 years old). Mr. Roney did not reply having acknowledged receipt of the final notice by return receipt dated April 28, 1999.

11. To date, a Tier 2 report has not been submitted. The Department has determined that given the fact that Mr. Roney knowingly assumed regulatory responsibility as part of the property transfer and obtained an assignment of remedial benefit rights from the Iowa UST Fund, enforcement should be directed to him.

IV. CONCLUSIONS OF LAW

1. Iowa Code chapter 455B, Division IV, Part 8 (§§ 455B.471 - 455B.479) establishes the Underground Storage Tank (UST) program. Section 455B.472 declares that the release of

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In Re: Jerry Roney

regulated substances, including petroleum products, from underground storage tanks constitutes a threat to the public health and safety and to the natural resources of the state, and this regulatory program is necessary to adequately address this concern. Iowa Code § 455B.474 authorizes the Environmental Protection Commission to adopt rules related to release detection and prevention, financial responsibility, tank closure, site assessment, risk classification, and corrective action applicable to all owners and operators of USTs. The Commission has adopted such rules at Chapters 567 I.A.C. 135 and 136.

2. Iowa Code § 455B.471(6) defines "owner." These USTS were in service after July 1, 1985. Verle Landess is an owner as defined and responsible for taking the corrective action as required by this order. Jerry Roney assumed all environmental regulatory obligations of Verle Landess as owner of USTS through the lease/option and transfer of property ownership.

4. Petroleum and its constituent parts is a regulated substance as defined at Iowa Code section 455B.471(8).

5. A "release" of a "regulated substance" has occurred at the site as defined at Iowa Code sections 455B.381 and 455B.471(9) and (8).

6. Iowa Code section 455B.472 declares that the release of "regulated substances" from underground storage tanks constitutes a threat to public health and safety and to the natural resources of the state. Iowa Code § 455B.381(4) defines "hazardous condition" as "... any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance...". Petroleum and its constituents are "hazardous substances" under Iowa Code section 455B.381(5). A "hazardous condition" exists as defined at Iowa Code section 455B.381(4).

7. Iowa Code section 455B.381(7) defines a "person having control over a hazardous substance". Jerry Roney is a person having control over a hazardous substance. See *Blue Chip Enterprises, et al v. IDNR* 528 N.W.2d 619, (Iowa 1995)

8. Iowa Code section 455B.383 requires the Department to develop rules as are necessary to protect the public from unnecessary exposure to hazardous substances. The Department has adopted rules under this authority in Chapter 567 Iowa Administrative Code (I.A.C.) 133. The Department in its discretion is incorporating chapter 567 I.A.C. 135 site assessment rules as applied to parties responsible for corrective action under chapter 133 and its enabling legislation.

9. Iowa Code section 455B.186 prohibits the discharge of a pollutant into waters of the state unless the discharge is pursuant to a permit issued by the Director of the Department of Natural

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Resources. Petroleum and its constituents including benzene, ethylbenzene, xylene, and toluene are pollutants as defined at Iowa Code section 455B.171(13). Iowa Code section 455B.175 authorizes the director of the DNR to issue an order to any "person" determined to be in violation of that part. Jerry Roney is a person as defined in Iowa Code section 455B.171(11) and responsible for conducting a site assessment under the holding and rationale in *Blue Chip (id)*.

10. DNR rule 567 I.A.C. 135.14 defines levels of contamination which constitute Department action levels. Petroleum contamination on site exceeds action levels requiring further corrective action.

11. DNR rule 567 I.A.C.135.9 establishes the policies and procedures for conducting a Tier 1 site assessment on a pathway by pathway basis. Unless the maximum concentrations do not exceed the levels in the Tier 1 table and other conditions are met which would qualify the site to be classified as no action required, owners and operators must conduct a more comprehensive Tier 2 site assessment and submit a Tier 2 site cleanup report (SCR) in accordance with 567 I.A.C. 135.10. A party may conduct a Tier 1 for Department review and then proceed to a Tier 2 or elect to complete a Tier 2 assessment report.

12. All corrective action must be conducted by a certified groundwater professional in accordance with 567 I.A.C. 135.8(2).

13. Upon review of the Tier 1 or the Tier 2 assessment report, the Department will approve a pathway or site classification in accordance with 567 I.A.C. 135.12. Based on the risk classification, further corrective action may be required.

14. Jerry Roney has failed to complete a Tier 2 site assessment and submit a report in violation of Department rules 567 I.A.C. 135.7 - 135.14.

V. ORDER

THEREFORE, you are ordered to comply with the following provisions in order to cease such violations:

1. Within 30 days of receipt of this order, provide written notification of the certified groundwater professional retained for this project to the underground storage tank section of the Department. You must submit an enforceable contract the terms of which obligate the consultant to complete a Tier 2 site assessment within the timeframes established by this order.
2. Within 120 days of receipt of this order, submit a Tier 2 site assessment report in accordance

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with Chapter 567 I.A.C. 135.

3. Pay to the order of the Iowa Department of Natural Resources a penalty of \$2,000 within sixty (60) days of receipt of this order unless the order is appealed as provided in Division VII below.
4. Upon submittal of the Tier 2 report, the Department will classify the risk associated with the site and further corrective action may be required in accordance with 567 I.A.C. 135.12.

VI. PENALTY

1. Iowa Code § 455B.477 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for violation of the type cited in this order.

2. Iowa Code § 455B.109 authorizes the assessment of administrative penalties up to \$10,000.00 for violations of Iowa Code ch. 455B or rules, permits, and orders promulgated or issued pursuant to chapter 455B. Rule 567--Chapter 10 of the Iowa Administrative Code was adopted by the Commission to implement this provision. Pursuant to rule 567 I.A.C. 10.2, the Department has determined that a penalty should be assessed. The administrative penalty is determined as follows. The Department reserves the right to reassess the penalty rationale if on appeal, additional information warrants a modification.

ECONOMIC BENEFIT: The party has earned the interest on the cost of compliance due to the delay in completing the Tier 2 site assessment. It is not clear at this point if Jerry Roney will be reimbursed at 100% through the Iowa UST Fund remedial benefit programs. Therefore, the Department reserves the right to make an assessment for this factor.

GRAVITY: Petroleum contamination above Department corrective action levels is present at the site. Concentration of contaminants is quite high at this site and completion of the site assessment is necessary to determine the extent of contamination and assess its risk to public health, safety and the environment. Mr. Roney acquired the property in August of 1997 and was formerly notified by the Department in June of 1998 of his regulatory obligations to submit a report by September of 1998. Compliance is over 15 months overdue. Applying a range of up to \$3000, \$1,000 is assessed for this factor.

CULPABILITY: Jerry Roney has been notified on several occasions of the duty to complete a site assessment and given the opportunity to establish his intentions or to clarify his position regarding liability. His has failed to communicate with the Department. He knowingly

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purchased this site with the assumption of liability and apparently with the assistance of counsel. Applying a range of up to \$3,000, \$1,000 is assessed for this factor.

VII. APPEAL RIGHTS

Pursuant to Iowa Code § 455B.476, and 567 I.A.C. 561-7.5(1), as adopted by reference by 567 I.A.C. 7, the party may file a written Notice of Appeal to the Environmental Protection Commission within 30 days of receipt of this Order. The party should file this Notice of Appeal with the Director of the Department, and must identify the specific portion or portions of this order he wishes to appeal. The party must also include a short and plain statement of the reasons for appeal. A contested case hearing will then commence pursuant to the Iowa Code, chapter 17A, and the Iowa Administrative Code, chapter 561-7.

VIII. NONCOMPLIANCE

Failure to comply with this order may result in the imposition of further administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code § 455B.477. The Department reserves the right to request that the Attorney General initiate legal action based on the violation alleged in this order, as well as any subsequent violations in the event the party violates the order, including failure to timely pay any penalty.

Paul W. Johnson
PAUL W. JOHNSON, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 12 day of

June, 2000

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

JERRY RONEY
310 NORTH HWY 69
HUXLEY IA 50124

4a. Article Number

2255917843

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

1-26-00

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X Heidi Roney

PS Form 3811, December 1994

102595-97-8-0179

Domestic Return Receipt

Thank you for using Return Receipt Service.